United Nations E/CN.6/2008/NGO/27

Economic and Social Council

Distr.: General
18 December 2008

Original: English

Commission on the Status of Women
Fifty-second session
25 February-7 March 2008
Item 3 (a) (i) of the provisional agenda*
Follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century": implementation of strategic objectives and action in critical areas of concern and further actions and initiatives: financing for gender equality and the empowerment of women

Statement submitted by Canadian Voice of Women for Peace, a non-governmental organization in consultative status with the Economic and Social Council

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* E/CN.6/2008/1.

07-65257 (E) 140108

Statement

We identify with passion the need for deliberate action to end the scourge of war which still inflicts hideous, ongoing suffering.

Within the Charter and Security Council Resolution 1325 the legal foundations exist to move beyond words to sustainable peace.

The fundamental purpose of the UN Charter is to prevent the scourge of war. UN Security Council Resolution 1325 strengthens this purpose.

The preamble of UN Security Council Resolution 1325 reaffirms the "important role of women in the prevention and resolution of conflicts and in peace-building, and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision- making with regard to conflict prevention and resolution."

PROVISIONS UNDER CHAPTER VI FOR THE PEACEFUL RESOLUTION OF DISPUTES

Chapter VI, entitled "peaceful solutions of disputes," of the Charter of the United Nations, upholds the fundamental purposes of the Charter, advances the de-legitimization of war, and promotes respect for the rule of international law through the International Court of Justice.

A number of provisions have been established to bring about the peaceful settlement of disputes:

(i) The first provision is to counter conflict of interest in decision-making related to peaceful solutions of disputes

Decisions under Chapter VI, are constrained by Article 27 which reads that a party to a dispute shall abstain from voting. This provision present in Chapter VI is absent in Chapter VII and is, regrettably, consistently violated by the UN Security Council.

(ii) The second provision to bring about peaceful settlement of disputes is recourse, under Article 36, to the rule of international law, through the International Court of Justice: Article 36 reads: "legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court."

Chapter XIV complements Chapter VI in outlining the role of the International Court of Justice.

Under Chapter XIV, Article 92 states that the International Court of Justice shall be the principal judicial organ of the United Nations, and under Article 93 all members of the UN are ipso facto parties to the statute of the International Court of Justice, and under Article 94, each member of the United Nations undertakes to comply with the decision of the International Court of Justice in a case to which it is a party and under Article 96 there is the provision for the UN General Assembly, UN

Security Council and other organs of the UN to request the International Court of Justice to give an advisory opinion on any legal question.

Chapter VI of the Charter of United Nations must be strengthened and, in particular, it must be made mandatory for states to appear before the International Court of Justice, to accept its jurisdiction and to act on its decisions.

THE CHALLENGE OF CHAPTER VII

Chapter VII of the Charter contravenes its purpose to prevent the scourge of war. Unfortunately, under international law, an invasion of another state is deemed to be legal if the UN Security Council, under Chapter VII, deems that the necessary conditions required for a war to be "legal" have been met.

To prevent the scourge of war and to remove the conditions which are claimed to support the legality of war, the global community must definitively concur that the conditions that have been used to declare war to be legal must be abandoned.

THE CENTRAL ROLE OF THE UN GENERAL ASSEMBLY: UNITING FOR PEACE RESOLUTION

Under the Charter of the United Nations there is an important principle – the principle of sovereign equality; this principle is violated by the UN Security Council but respected by the UN General Assembly.

In 1951, when the UN Security Council was unable to come to an agreement, resolution 377 (V) entitled "Uniting for Peace" was passed by the UN General Assembly. The purpose of the resolution was to recognise the responsibility of the UN General Assembly to prevent the scourge of war. In the preamble of the Resolution is the following expression of the role given to the UN General Assembly:

"If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including, in the case of a breach of the peace or act of aggression, the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations."

ADDITIONAL ROLE OF THE UN GENERAL ASSEMBLY: SETTING UP INTERNATIONAL TRIBUNALS

When the leader of any state, under any guise, including the misconstruing of Article 51- self defence, demonstrates defiance of the fundamental principles and peremptory norms established through the

UN system, the UN General Assembly must invoke article 22 which would permit the UN General Assembly to set up an international tribunal to judge a leader for contributing to crimes against the peace.

EXTENDING RESOLUTION 1325 TO APPLY TO THE PREVENTION OF WAR AND VIOLENT CONFLICT IN MAINTAINING TRUE SECURITY

If UN Security Council Resolution 1325 is to seriously be instrumental in preventing war and violent conflict, the resolution must recognize the larger spectrum reflected in maintaining true global security through the compliance with international peremptory norms reflected in the years of international instruments; these norms can be derived from international instruments that have the following objectives:

- to achieve a state of peace, and disarmament through reallocation of military expenses;
- to create a global structure that respects the rule of law and the International Court of Justice;
- to enable socially equitable and environmentally sound employment, and ensure the right to development and social justice;
- to promote and fully guarantee respect for human rights including labour rights, civil and political rights, social and cultural rights-- right to food, right to housing, right to safe drinking water and sewage, right to education and right to universally accessible not for profit health care system;
- to ensure the preservation and protection of the environment, the respect for the inherent worth of nature beyond human purpose, and the reduction of the ecological footprint, and to move away from the current model of unsustainable and over-consumptive development.

Recommendations:

1. We call upon all governments to help prevent war by invoking the United Nations Charter's Chapter VI; urge that the conflict matter be transferred to the International Court of Justice, or for the responsibility to be transferred to the United Nations General Assembly under the uniting for peace resolution;

2. We urge the CSW to support the rephrasing of the Charter's Article 36 to read "legal disputes 'shall' rather than 'should as a general rule', be referred by the parties to the International Court Of Justice...";

3. We call upon members of the CSW to urge examination of Chapter VII, which condones conditional legitimization of war in contravention of the purpose of the United Nations Charter itself, with a view that it must be struck;

4. We urge the CSW to support the extension of Security Council resolution 1325 to include women's participation with respect to true security issues such as the prevention of environmentally-induced war and violent conflict;

5. We urge the CSW to call upon Governments to seriously address the contribution of militarism to perpetuation of the continuing threat of climate change — through emissions from the production of all weapons systems; military exercises; war games; weapons testing; military aviation; environmental warfare; troop transfer; military operations; waste generation; reconstruction afteracts of violent interventions etc. to greenhouse gas emissions.

All this we owe to the vision of humanity that inspired the UN Charter in its quest for the abolition of war and real equality.